

Before the  
**FEDERAL COMMUNICATIONS COMMISSION**  
Washington, D.C. 20554

In the Matter of	)	
	)	
Telecommunications Relay Services	)	
And Speech-to-Speech Services for	)	CG Docket No. 03-123
Individuals with Hearing and Speech	)	
Disabilities	)	
	)	
Speech-to-Speech and Internet Protocol	)	CG Docket No. 08-15
(IP) Speech-to-Speech	)	
Telecommunications Relay Services	)	

To: The Commission

**COMMENTS ON NOTICE OF PROPOSED RULEMAKING**

GoAmerica, Inc. ("GoAmerica"), by counsel and pursuant to FCC Rule Section 1.415 submits its Comments on the Commission's June 24, 2008 Notice of Proposed Rulemaking, FCC 08-149 ("NPRM"), and states the following.

**I. Introduction.**

In December 2007, Hawk Relay requested clarification<sup>1</sup> that Internet Protocol Speech to Speech ("IP STS") relay is a form of Telecommunications Relay Service ("TRS") eligible for compensation from the Interstate TRS Fund ("Fund"). In response, the NPRM, tentatively concludes that IP STS is a form of TRS compensable from the Interstate TRS Fund, and seeks comment on this tentative conclusion, and related issues relevant to the provision, regulation, and compensation of IP STS. In its comments below, GoAmerica supports the Commission's tentative conclusion that IP STS is

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<sup>1</sup> See Hawk Relay, *Request for Expedited Clarification for the Provision and Cost Recovery of Internet Protocol Speech to Speech Relay Service*, CG Docket No. 08-15 (Dec. 21, 2007) ("*Hawk Relay Request*").

compensable TRS and provides further comment on the various issues raised in the NPRM.

## **II. Discussion.**

The Commission seeks comment on several issues concerning the provision of STS, a form of TRS.<sup>2</sup> These issues are: (1) whether to amend the TRS regulations to require that Communications Assistants (“CA”) handling STS calls stay with calls for a minimum of 20 minutes;<sup>3</sup> (2) whether to amend the TRS rules to require STS providers to offer STS users the option of having their voices muted so other parties to their calls would only hear the CA re-voicing the call; and (3) ways to ensure that STS users calling 711, the nationwide access code for state relay providers, will promptly reach an STS CA to handle their calls, including, for example, requiring TRS providers to use an interactive menu that allows the user to reach an STS CA as the first option. In addition, the Commission seeks comment on various other issues with respect to IP STS and STS, including compensation and outreach issues.

### **A. IP STS is compensable TRS.**

The Commission seeks comment on Hawk Relay’s December 21, 2007 request for clarification that IP STS is a form of TRS eligible for compensation from the Interstate TRS Fund. NPRM at 7-8. IP STS would use the Internet, rather than the PSTN, to

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<sup>2</sup> As the Commission explains, “STS relay service utilizes a specially trained CA who understands the speech patterns of persons with speech disabilities and can repeat the words spoken by such an individual to the other party to the call.” NPRM at 2. Generally a person with a speech disability initiates an STS call by calling a TRS provider and giving the CA the number of the person he or she wishes to call. The CA then makes the outbound call, and re-voices what the STS user has said to the called party. Persons desiring to call a person with a speech disability via STS can also initiate an STS call. *Id.*

<sup>3</sup> See Bob Segalman and Rebecca Ladew, *Petition for Amendment to TRS rule on Speech-to-Speech Relay Service*, CG Docket No. 03-123, filed June 26, 2006 (“*STS Petition*”).

connect the consumer to an STS relay provider.<sup>4</sup> Rather than using a standard telephone to make the relay call, Hawk Relay explains that an IP STS user could use a personal computer or personal digital assistant (“PDA”) device and, with the installation of appropriate application software, make a voice call via the Internet to the relay provider. Hawk Relay asserts several benefits of IP STS, including portability, ease of use, and increased competition.<sup>5</sup> Hawk Relay requests that IP STS calls be eligible for compensation from the TRS Fund, but does not address whether all IP STS calls should be compensated from the Fund (*i.e.*, both interstate and intrastate), and does not suggest what the appropriate IP STS compensation rate should be, or whether it should be different from the interstate STS rate. Hawk Relay also requests certain TRS mandatory minimum standards be waived for IP STS because they have been waived for STS.<sup>6</sup>

The Commission has tentatively concluded: (1) that IP STS is a form of TRS compensable from the Interstate TRS Fund because it is an extension of STS that gives persons with speech disabilities an alternative way to initiate an STS call and reach a CA; (2) that a service will be considered IP STS as long as it allows the STS user to connect to the CA via a computer, PDA, or similar device and the Internet, rather than by making a traditional telephone call; (3) that all IP STS calls may be compensated from the Fund if provided in compliance with the Commission’s rules; (4) that IP STS will be compensated at the same per-minute rate as STS; and (5) that an entity desiring to provide IP STS may choose to seek certification from the Commission under the

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<sup>4</sup> *Hawk Relay Request* at 3

<sup>5</sup> *Id.* at 3-5.

<sup>6</sup> *Hawk Relay Request* at 6; *see* 47 C.F.R. § 64.604 (TRS mandatory minimum standards).

certification rules. NPRM at 7-9.<sup>7</sup> The NPRM seeks comment on each of these tentative conclusions. *Id.*

GoAmerica agrees with each of the Commission's tentative conclusions. IP STS is plainly TRS, merely provided like IP Relay and VRS, through a different process than the PSTN. IP STS fully meets the definition of TRS as set forth in Section 225 of the Act and the Commission's rules. Indeed, the only difference between IP STS and STS appears to be that IP STS is delivered in whole or in part through the Internet. Given that video relay service and IP Relay delivered through the Internet are considered TRS, there can be no question but that IP STS is likewise compensable TRS.

Furthermore, GoAmerica agrees that all IP STS calls should be compensated from the Interstate TRS Fund at the same rate as existing STS calls. At this point it appears the cost of IP STS calls will largely tract those of STS calls. With respect to certification, GoAmerica agrees that separate FCC certification to provide IP STS is appropriate.

The Commission notes that certain mandatory minimum standards are either inapplicable to IP STS or should be waived for IP STS and tentatively concludes that providers of IP STS need not meet the following requirements: (1) competent skills in typing and spelling for CAs; (2) handling calls in ASCII and Baudot formats; (3) call release; (4) Hearing Carry Over (HCO) and Voice Carry Over (VCO) services; (5) equal access to interexchange carriers; (6) pay-per-call (900) service; (7) speed dialing; and (8)

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<sup>7</sup> Therefore, as with IP CTS, potential IP STS providers could become eligible for compensation from the Fund by being accepted into a certified state TRS program or subcontracting with an entity that is part of a certified state program, or by seeking Commission certification. The Commission also tentatively concludes that present eligibility to receive compensation from the Fund for the provision of other forms of TRS (including STS) would not confer eligibility with regard to the provision of the IP STS. NPRM at 9.

outbound 711 dialing, subject to an annual reporting requirements for those waivers presently subject to STS. NPRM at 9-10. Again, GoAmerica agrees with the Commission's tentative conclusions. The standards at issue are either not applicable to STS or currently waived for STS and should not therefore apply to IP STS.

Lastly, the Commission seeks comment on the emergency call handling rules that should apply to IP STS. *Id.* at 10. It notes that in March 2008 the Commission adopted interim emergency call handling requirements and on June 11, 2008, it adopted more comprehensive emergency call handling requirements for VRS and IP Relay.<sup>8</sup> It seeks comment whether these requirements should apply to IP STS, or whether some other rules should apply. Specifically, it asks whether, IP STS users be required to register their location for purposes of emergency call handling, and whether, pursuant to the *TRS Numbering Order*, IP STS users be required to obtain a ten-digit NANP telephone number so that traditional telephone users can call an IP STS user by dialing that number and without knowing the IP STS user's current IP address. *Id.*

In GoAmerica's view, the emergency call handling rules for IP STS should generally mirror those of IP Relay. However, at this stage, where no one is currently providing the service, it is important for the Commission to allow sufficient flexibility -- such as temporary waivers -- in the event technical issues arise which prevent IP STS providers from meeting all 911 requirements. GoAmerica supports provision of numbering to IP STS users, but for the same reasons as it has discussed in the pending numbering proceeding, opposes mandatory registration.

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<sup>8</sup> See *Telecommunications Relay Services*, FCC 08-151 (June 24, 2008) ("*TRS Numbering Order*").

**B. Length of time CAs should stay with a call.**

The NPRM notes that Bob Segalman and Rebecca Ladew have filed a petition requesting that the Commission amend its rules to require an STS CA to stay with the call for a minimum of 20 minutes, rather than 15 minutes.<sup>9</sup> Currently, the rules require STS CAs to stay with a call for at least 15 minutes before transferring the call to another CA, five minutes longer than the rule for other forms of TRS.<sup>10</sup> Petitioners assert that because “STS calls often last much longer than text-to-voice calls [due to among other reasons, the settling in period,] changing CAs on these calls prior to twenty minutes can seriously disrupt their flow and impair functionally equivalent telephone service.”<sup>11</sup> In light of these factors, they claim that changing CAs during a call both disrupts the STS user’s concentration and requires the new CA to become familiar with the STS user’s speech pattern, thereby impeding the conversation.<sup>12</sup> Petitioners further request the FCC to specify that the 20 minute period begins when “effective” communication begins between the STS user and the CA.<sup>13</sup>

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<sup>9</sup> *STS Petition* at 1.

<sup>10</sup> See *Telecommunications Relay Services*, 15 FCC Rcd 5140, 5169-70 (2000); 47 C.F.R. § 64.604(a)(1)(v). The NPRM explains (at 2-3) that this is because a longer minimum for STS calls was considered appropriate because “changing CAs can be particularly disruptive to users with speech disabilities.” During the initial stages of a relay call there is a “settling-in” period, and that during this time “callers with speech disabilities develop greater assurance that the CA will understand them,” and that “[r]otation of a CA during an STS call disrupts this assurance, and may even cause the user to speak less clearly.” 15 FCC Rcd at 5170.

<sup>11</sup> *STS Petition* at 3.

<sup>12</sup> *Id.*

<sup>13</sup> *Id.* at 2-3. The current rule states that the CA “answering and placing an STS call must stay with the call for a minimum of fifteen minutes.” 47 C.F.R. § 64.604(a)(1)(v).

GoAmerica cannot support lengthening the required time during which a CA must stay with an STS call to 20 minutes, nor does it support pegging the time when the CA may switch to when “effective communication” is established. As the Petitioners note, STS calls often involve a lengthy setup period, as well as a settling in period. Just as STS calls may require extensive concentration on the part of the consumer, they require extensive concentration on the CA’s part. It is conceivable that under the standard the Petitioners request CAs could be forced to stay with calls for a very long time, even as long as 40 minutes to an hour. That is simply unfair to the CA who may need a break or whose shift has ended. Moreover, “effective communication” is an undefined and indefinable term. Adopting such a standard is likely to engender unnecessary conflict and complaints. The rules should maintain an objective, rather than subjective, standard in this regard. Hence, the 15 minute standard should be measured from when the CA begins working the call. We note that as a matter of policy, GoAmerica’s CAs use their best efforts to stay with a call as long as possible.

**C. Voice muting.**

The NPRM asks whether to amend the TRS rules to require STS providers to offer STS users the option of having their voices muted so other parties to the call would only hear the STS CA re-voicing the call, not the voice of the STS user as well. NPRM at 6-7. GoAmerica currently offers this option, but takes no position whether the rules should require providers to offer it. GoAmerica does agree that many STS users prefer that their voice not be passed through to the other party to the call because it can be distracting.

**D. Ways to ensure STS users will promptly reach an STS CA.**

The NPRM seeks comment on ways to ensure that STS users calling 711 will promptly reach an STS CA to handle their calls. It notes that the FCC has received reports from STS users that they have been disconnected after dialing 711 when the CA attempted to transfer the caller to an STS CA. It seeks comment on the feasibility of requiring TRS providers to use a prompt or menu at the beginning of the call that would permit STS callers to indicate that they would like to reach an STS CA. The NPRM also seeks comment on the scope of the problem of STS callers being disconnected before reaching an STS CA and on ways to ensure that STS users will promptly reach an STS CA without being disconnected. NPRM at 7.

In GoAmerica's view, imposing a menu requirement at the start of a 711 call would be counterproductive. STS calls represent less than one percent of 711 calls. As such, imposition of a menu at the beginning of the call would impose an undue burden on the 99 percent of non-STS calls reaching 711. A better solution in GoAmerica's view would be a requirement for a single nationwide toll-free number per STS provider which would allow immediate access to an STS CA.<sup>14</sup>

**E. Outreach and compensation issues.**

The NPRM seeks comment on the FCC's authority to require individual states to increase the payment rates paid for intrastate STS to ensure STS providers receive sufficient compensation to engage in sufficient outreach to inform new potential users of this service. NPRM at 10-11. The Commission's authority in the area would appear

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<sup>14</sup> STS users also tend to rely more on their profile as part of the connection process than regular TRS users, which helps obviate the need for a menu option.



limited to approving or disapproving state TRS programs. It is doubtful whether the FCC -- or Congress for that matter -- have the authority to directly require states to take any action. See *Printz v. United States*, 521 U.S. 898 (1997) (invalidating requirement that local law enforcement agencies conduct background checks on firearm purchasers). Although we believe the FCC has the authority to ensure state programs adequately compensate providers, the only remedy the agency appears to have in this regard is to disapprove a state TRS program. In that case, the burden of providing TRS falls on the Commission under Section 225.<sup>15</sup> In light of the extensive setup times for STS, however, it is imperative that provider compensation cover setup time. Thus, any move to set STS compensation rates based on IP Relay or traditional TRS rates should be rejected.

The NPRM also seeks comment on specific outreach efforts that might extend the reach of STS (and IP STS) to new users, and whether the FCC should mandate such specific efforts of both intrastate and interstate providers. GoAmerica, as a general matter, supports aggressive outreach for all forms of relay. Even today, many persons who would benefit from TRS are unaware of the service. This is especially true in the case of the public at large, many of whom hang up on relay calls thinking they are telemarketing calls. Recent declaratory rulings purporting to limit the ability of providers to conduct outreach to deaf and hard of hearing persons,<sup>16</sup> have not helped the situation. We again urge the FCC to revise its limitations on marketing and outreach to apply CPNI like rules, and otherwise not micromanage providers' marketing and outreach efforts.

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<sup>15</sup> It would appear that the Commission would have to set a minimum standard of outreach for STS which providers under state programs would be required to meet

<sup>16</sup> See *Telecommunications Relay Services*, 23 FCC Rcd 8993 (2008); *Telecommunications Relay Services*, 22 FCC Rcd 20140 (2007) ("2007 TRS Cost Recovery Order").

The NPRM also seeks comment whether use of the MARS rate for STS (and possibly IP STS), as currently provided is inadequate to compensate providers for the level of outreach necessary to reach potential STS users. NPRM at 11. The NPRM references the *2007 TRS Cost Recovery Order* where the Commission added an additional sum to the STS rate to be used for outreach,<sup>17</sup> and seeks comment on this approach, the appropriate amount of such an additional amount, and whether such outreach should be funded through an adjustment to the per-minute compensation rate or in some other way. GoAmerica supports the additional outreach funding the Commission has provided for STS and suggests it should apply to IP STS as well. At this point, GoAmerica favor retention of the additional outreach funding for STS for a minimum of three years to give the FCC the opportunity to evaluate the outreach progress that has been made. At the end of that three year period, the Commission should be in a position to reevaluate whether to continue the additional outreach funding and the amount.

**F. One nationwide STS provider.**

The NPRM asks whether, given the relatively low usage of STS (compared to the other forms of the TRS), it might be appropriate to have a single, nationwide provider offer both interstate and intrastate STS, including whether the Commission would have the authority to mandate such an approach to the provision of service. NPRM at 11. GoAmerica opposes a single nationwide STS provider because competition serves to improve service and innovation to the public. Moreover, having multiple STS providers improves the availability and reliability of the service. For example, if one provider's

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<sup>17</sup> *Id.*, citing, *2007 TRS Cost Recovery Order*, 22 FCC Rcd at 20166.

service goes down due to a power outage, labor strike or some other catastrophic event, there would still be other providers available to handle the traffic. Given the limited usage of STS, however, it may be appropriate to limit certification of nationwide STS providers to existing providers who offer all other forms of TRS in order to assure an adequate financial base for the service.

Respectfully submitted

**GOAMERICA, INC.**

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September 12, 2008